S. Hrg. 98-367

USE AND DISTRIBUTION OF ASSINIBOINE TRIBE JUDGMENT FUNDS

HEARING

BEFORE THE

SELECT COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE

NINETY-EIGHTH CONGRESS

FIRST SESSION

ON

S. 1148

TO PROVIDE FOR THE USE AND DISTRIBUTION OF FUNDS AWARDED THE ASSINIBOINE TRIBE OF FORT BELKNAP AND FORT PECK INDIAN COMMUNITIES, MONTANA

JULY 13, 1983

WASHINGTON, D.C.

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CONTENTS

	Page
S. 1148	3

WITNESSES

Akers, Dolly Cuskers, Fort Peck allottee and former chairman of the Fort Peck Tribes	11
Prepared statement	25
Fourstar, Carl, representing the Assiniboine Tribe of Fort Peck Indian Community, Mont	10
Fourstar, Leslie, Sr., chairman, Assiniboine Claims Committee	24
Fritz, John, Deputy Secretary for Indian Affairs, Department of the Interior	12
Prepared statement	13
Horn, Gilbert, representing the Assiniboine Tribe of Fort Belknap Indian Community, Mont	8
Prepared statement	9
Lazarus, Art, attorney for the Fort Belknap Indian Community, Mont	8
Melcher, John, a U.S. Senator from the State of Montana, prepared statement	1
Pennington, Bob, Bureau of Indian Affairs, Department of the Interior	12
Weeks, Willie, Wolf Point, Mont., representing the Assiniboine Tribe	11
Wolf, Dulcie Rae, member, Fort Peck Reservation, Assiniboine Tribe	11
Prepared statement	25

USE AND DISTRIBUTION OF ASSINIBOINE TRIBE JUDGMENT FUNDS

JULY 13, 1983

U.S. SENATE,
SELECT COMMITTEE ON INDIAN AFFAIRS,
Washington, D.C.

The committee met, pursuant to notice, in room 562, Dirksen Senate Office Building, Senator John Melcher (acting chairman) presiding.

Present: Senator Melcher.

Staff present: Max I. Richtman, minority staff director; Virginia Boylan, staff attorney; and Elva Arquero, chief clerk.

Senator MELCHER (acting chairman). The hearing will come to order.

This morning we are here to consider S. 1148, which is the judgment bill for the Assiniboine Tribe of Fort Belknap and Fort Peck. We hope that this bill can be agreed upon very promptly and that the conditions and terms of the distribution of the judgment are agreeable to the Assiniboines, both at Fort Belknap and at Fort Peck.

S. 1148 was introduced in April of this year and, subsequent to that time, it is my understanding that the members of the tribe have met and have decided on a distribution formula as to blood quantum, and have agreed, where it has been requested, for any updating of the rolls.

We will be hearing from three different witnesses this morning representing the tribe, and then, last, we will hear from the administration on any problems they may have with the bill. I hope we can resolve this very quickly. I know that the members of the tribe have been long awaiting the passage of the bill, and have been long awaiting the distribution of the judgment funds.

[The prepared remarks of Senator Melcher follow:]

PREPARED STATEMENT OF SENATOR JOHN MELCHER

The Senate Select Committee on Indian Affairs is meeting this morning to hear testimony on S. 1148, a bill I introduced in the Senate on April 26, 1983. The bill provides for the use and distribution of funds awarded the Assiniboine Tribe of the Fort Belknap Indian Community, Montana, and the Assiniboine Tribe of the Fort Peck Indian Community, Montana, by the United States Court of Claims in docket numbered 10–81L. The claims underlying the judgment were filed with the U.S. Court of Claims on January 12, 1981, pursuant to authority conferred by Public Law 96–434. These two tribes brought this action in a representative capacity on behalf of the Assiniboine Nation recognized as the owner of certain land by the Treaty of Fort Laramie on September 17, 1851.

In *Assiniboine Indian Tribe* v. *United States*, the Court of Claims, in 1933, determined that the land in question contained 6,477,940 acres. Under Public Law 96–434, conferring jurisdiction upon the Court of Claims that acreage figure was binding. The Court also determined that as of the various dates of appropriation by the United States, the average value per acre of these lands was 50 cents,

for a total of $3,328,970. Under Public Law 96–434, that value figure was also binding in this case.

Further, a ruling was requested that the subject lands had been taken within the meaning of the Fifth Amendment. Thus it was claimed that plaintiffs had been damaged to the extent of the value of lands so taken, that is 50 cents per acre, as of the governing dates of taking, plus interest at five percent per annum. A final award of $16,389,593 was made by the Court of Claims on September 30, 1981, in docket numbered 10–81L. Also on that date these funds were appropriated by the Congress in satisfaction of the award.

S. 1148 would divide the funds with 42.5 percent to be awarded the Fort Belknap Assiniboine Tribe and 57.5 percent awarded to the Fort Peck Assiniboine Tribe. This division is pursuant to an agreement entered into by the Fort Peck Assiniboine Council and the Fort Belknap Assiniboine Treaty Committee in Billings, Montana, on March 31, 1983. The minority staff director of the Senate Select Committee on Indian Affairs and a representative of the Bureau of Indian Affairs were present at that meeting.

The bill further provides that in the case of the Fort Belknap Assiniboine Tribe 80 percent of the funds will be distributed per capita and 20 percent will be invested for the benefit of the Tribe. In the case of the Fort Peck Assiniboine Tribe, 70 percent of the funds will be distributed per capita and 30 percent will be invested for the benefit of the Tribe.

The bill further provides that in order to be eligible to share in the award at Fort Belknap, one must be a duly enrolled Assiniboine of the Fort Belknap Indian Community. With respect to Fort Peck eligibility to share in the award, requires that one must be a duly enrolled Fort Peck Assiniboine who is at least one-fourth degree Indian blood but not less than one-eighth degree Fort Peck Assiniboine blood.

It is my understanding in the case of the Fort Peck Assiniboine portion of this award, a referendum was held in Oswego, Montana, on June 3 at which a majority voted in favor of dropping the blood quantum requirement entirely. The Committee will be receiving testimony on the issue at today's hearing and remains open to modifying the eligibility requirement if that is the desire of a majority of the people affected.

I will press for early enactment of this legislation so that the Tribes and members can have the benefit and use of the funds that were set aside for them nearly two years ago.

Senator MELCHER. At this point, without objection, I will place a copy of S. 1148 in the hearing record.

[The bill follows:]

98TH CONGRESS
1ST SESSION

S. 1148

To provide for the use and distribution of funds awarded the Assiniboine Tribe of the Fort Belknap Indian Community, Montana, and the Assiniboine Tribe of the Fort Peck Indian Community, Montana, in docket numbered 10–81L by the United States Court of Claims, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 26, 1983

Mr. MELCHER introduced the following bill; which was read twice and referred to the Select Committee on Indian Affairs

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A BILL

To provide for the use and distribution of funds awarded the Assiniboine Tribe of the Fort Belknap Indian Community, Montana, and the Assiniboine Tribe of the Fort Peck Indian Community, Montana, in docket numbered 10–81L by the United States Court of Claims, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other provision of law, the funds appropriated on September 30, 1981, in accordance with section 1302 of the Supplemental Appropriation Act (31 U.S.C. 724a), in satisfaction of an award in United States Court of Claims docket numbered 10–81L, including all interest and

investment income accrued, less attorney fees and litigation expenses, shall be divided on the basis of 42.5 percent of the award funds to the Assiniboine Tribe of the Fort Belknap Indian Community and 57.5 percent of the award funds to the Assiniboine Tribe of the Fort Peck Indian Community and utilized for the purposes herein provided.

SEC. 2. The funds apportioned to the Assiniboine Tribe of the Fort Belknap Indian Community, Montana, less the costs incurred by the Fort Belknap Assiniboine Treaty Committee in connection with the use and distribution of such funds, including costs in connection with this legislation, and related attorney fees and expenses, shall be used and distributed as follows: *Provided*, That no person shall be eligible to share in more than one award in his own right:

(a) The Assiniboine membership roll of the Fort Belknap Indian Community shall be brought current to include all eligible members born on or prior to and living on the date of enactment of this Act. Subsequent to the preparation and approval by the Secretary of the Interior (hereinafter "Secretary") of this roll, the Secretary shall make a per capita distribution of 80 percent of the funds (in a sum as equal as possible), to each enrollee. The Secretary's determination concerning eligibility to share in the per capita payment shall be final.

(b) 20 percent of these funds, and any amount remaining after the per capita payment, shall be held in trust and invested by the Secretary for the benefit of the members of the Assiniboine Tribe of the Fort Belknap Indian Community. The Treaty Committee of such Tribe, with the approval of the Secretary, shall distribute an annual family interest payment to all enrolled members of the Fort Belknap Assiniboine Tribe. All members on the Assiniboine tribal membership roll living on November 15 of each year shall be eligible for the annual interest payment. Members born after that date and living on the following November 15 shall be eligible for the next annual payment.

SEC. 3. The funds apportioned to the Assiniboine Tribe of the Fort Peck Indian Community, Montana, less the costs incurred by the Fort Peck Assiniboine Treaty Committee in connection with the use and distribution of such funds, including costs in connection with this legislation, and related attorney fees and expenses, shall be used and distributed as follows: *Provided,* That no person shall be eligible to share in more than one award in his own right:

(a) The Assiniboine membership roll of the Fort Peck Indian Community, Montana, shall be brought current to include all eligible members born on or prior to and living on the date of enactment of this Act.

Subsequent to the preparation and approval by the Secretary of this roll, the Secretary shall make a per capita distribution of 70 percent of the funds (in sums as equal as possible), to each enrollee who is at least one-fourth degree Indian blood, but not less than one-eighth degree Fort Peck Assiniboine blood. The Secretary's determination concerning eligibility to share in the per capita payment shall be final.

(b) 30 percent of these funds, and any amounts remaining after the per capita payment, shall be invested by the Secretary and administered by the Fort Peck Assiniboine Council for the Fort Peck Assiniboine people through the Executive Board of the Fort Peck Tribes, for social and economic development, on an annual budgetary basis subject to the approval of the Secretary.

SEC. 4. The per capita shares of living competent adults shall be paid directly to them. Shares of deceased individual beneficiaries shall be determined and distributed in accordance with 43 CFR, part 4, subpart D. Shares of legal incompetents shall be handled in accordance with 25 CFR 115.5. Shares of minors shall be handled in accordance with 25 CFR 87.10 (a) and (b)(1) and 115.4.

SEC. 5. None of the funds distributed per capita or held in trust under the provisions of this Act shall be subject to

Federal or State income taxes, and the per capita payments shall not be considered as income or resources when determining the extent of eligibility for assistance under the Social Security Act or any Federal or federally assisted programs.

SEC. 6. The Secretary is authorized to prescribe rules and regulations to carry out the provisions of this Act, including the establishment of deadlines for filing applications for enrollment.

Senator MELCHER. First, I would like to hear from Gilbert Horn.

STATEMENT OF GILBERT HORN, REPRESENTING THE ASSINIBOINE TRIBE OF FORT BELKNAP INDIAN COMMUNITY, MONTANA, ACCOMPANIED BY ART LAZARUS, ATTORNEY

Mr. HORN. Thank you.

Senator MELCHER. Gilbert, you are representing the Assiniboine Tribe of the Fort Belknap Reservation.

Mr. HORN. I thank you, Mr. Chairman. I would like to also thank the members of the committee and the staff members for giving us the time to be here today to testify before the committee. Rather than to read our statement, I will just kind of go over the high points of it.

With me today is my vice chairman, Don Archambault; John Allen, a committee member; and Milton Horn, another committee member; and our attorney, Art Lazarus.

As we decided on, I think it was March 31, in Billings, Mont., we agreed on the division of the money and we will go along with that in the bill. The plan for the distribution of the money was 80 percent per capita with 20 percent to be set aside, which is incorporated into the bill and which we go along with. We have no opposition to that.

It took us a long time to negotiate with the Fort Peck Assiniboines, and we think that settlement should be accepted by the Select Committee on Indian Affairs as we have accepted it. I would like passage as early as possible because we feel we have lots of our older members who are more entitled to the money than we are. We lost one who was over 100 years old, and I think those are the people who are more entitled to the money than we younger members are, even though today, myself, I am one of the elder members of the Reservation.

We thank you very much. Art will present a few minor amendments which will not change the meaning of the bill, only to correspond with our resolution that we passed to have the bill written.

Thank you very much.

Senator MELCHER. These are the amendments that have been attached to your testimony, Gilbert?

Mr. LAZARUS. Yes, they are. Mr. Chairman, There are five technical amendments, as Mr. Horn said, to conform the bill to the language of the tribal distribution plan, and they are just technical in nature. I point out two for the record: One clarifying the term in the bill that no one should get more than one, or more than his own right. That is just an effort to prevent double-dipping, and we think we clarified it with that amendment. The second is to make clear that the interest payments, just like per capitas, are to be free of Federal and State taxes.

Senator MELCHER. Thank you both. We appreciate your testimony and we appreciate the recommendations for technical amendments.

Do you have anything more to add, Gilbert?

Mr. HORN. No, we do not.

Senator MELCHER. Thank you both very much.

Mr. LAZARUS. Will Mr. Horn's statement be made a part of the record?

Senator MELCHER. Yes, it will.
Thank you very much, Gilbert.
[The prepared statement follows:]

PREPARED STATEMENT OF GILBERT HORN, CHAIRMAN, FORT BELKNAP ASSINIBOINE TREATY COMMITTEE

Mr. Chairman: My name is Gilbert Horn. I am Chairman of the Fort Belknap Assiniboine Treaty Committee and am authorized to testify before this Select Committee on behalf of all duly enrolled Fort Belknap Assiniboines. I am appearing here today to speak in favor of S. 1148, Senator Melcher's bill to provide for the division, distribution and use of the funds awarded by the United States Court of Claims to the Assiniboine Tribe of the Fort Belknap Indian Reservation and the Assiniboine Tribe of the Fort Peck Indian Reservation in Docket No. 10–81L. With me today are Donovan Archambault, John Allen, and Milton Horn, who are members of the Treaty Committee and join in my statement.

Section 1 of S. 1148 provides that the judgment funds awarded in Docket No. 10–81L, plus interest, shall be divided 42.5 percent to the Fort Belknap Assiniboines and 57.5 percent to the Fort Peck Assiniboines. These are compromise figures, reached after long and difficult negotiations. We at Fort Belknap thought the money should be divided 50–50, as was done with a previous award in 1973, while the Fort Peck Assiniboines thought they should have approximately two-thirds of the money, based upon current population figures. As I said, both sides reached a compromise which is incorporated into the bill, and I want to go on record that Fort Belknap approves the settlement.

Section 2 of S. 1148 provides, first, that the Secretary of the Interior shall prepare a current roll of the Assiniboine members of the Fort Belknap Indian Community. Once that roll has been completed—and we do not expect that it will take long because the present roll recently was updated—the Secretary is to make a per capita payment of 80 percent of the funds to all duly enrolled members. The remaining 20 percent of the money is to be invested, with the earnings each year to be distributed through family planning interest payments to all members of the Fort Belknap Assiniboine Tribe then enrolled. This is the distribution plan approved by the Fort Belknap Assiniboines and, I believe, also by the Secretary. We appreciate Senator Melcher's inclusion of the plan in his bill without change.

Section 3 of S. 1148 deals with funds belonging to the Fort Peck Assiniboines and it would not be appropriate for me to comment upon its language. I am concerned, however, that, unlike us at Fort Belknap, the Fort Peck Assiniboines may not be in agreement over their distribution plan. If this is true, and those differences are the cause of delay in passage of S. 1148, I ask that Section 3 be deleted from the bill and legislation be approved covering Fort Belknap alone. I do not think it is fair that our people should be deprived of the use of their money because of an argument on another reservation over which they have no control.

The remaining provisions of S. 1148 are entirely acceptable to us. However, I would like our attorney, Arthur Lazarus, to present some technical changes in the bill which, we believe, would help to clarify its intent.

Thank you for your courtesy.

PROPOSED AMENDMENTS TO S. 1148

Page 2, line 10, after "with", insert "planning for".

Page 2, line 14, delete "more than one award in his own right", and substitute the following text: "this distribution who has shared, except as a Fort Belknap Assiniboine, in any other per capita payment of funds appropriated in satisfaction of a judgment under the Act of August 13, 1946 (25 U.S.C. 70a *et seq.*)."

Page 2, line 23, delete "enrollee", and insert "duly enrolled member".

Page 3, line 7, after "family", insert "planning".

Page 5, line 1, after "per capita', insert "or family planning interest".

Senator MELCHER. We will call the second witness, Carl Fourstar.
Mr. CARL FOURSTAR. Thank you, Mr. Chairman.
Senator MELCHER. You may proceed, Carl.

STATEMENT OF CARL FOURSTAR, REPRESENTING THE ASSINIBOINE TRIBE OF FORT PECK INDIAN COMMUNITY, MONT.

Mr. CARL FOURSTAR. Mr. Chairman, and members of the Senate Select Committee on Indian Affairs, I thank you for the opportunity to appear before you and testify with respect to S. 1148.

My name is Carl Fourstar. I am a member of the Assiniboine and Sioux Tribes of the Fort Peck Reservation in Montana. I also serve as chairman of the Assiniboine Council, which is recognized by the tribal executive board of the Assiniboine and Sioux Tribes of the Fort Peck Reservation as the organization representing the Fort Peck Assiniboine Tribe.

With the permission of the chairman, I would like to also present the other delegates to the Assiniboine Council who are present at this hearing today: Elliott Todd and George Redstone. The rest of the delegates are on the third panel, and you will be seeing them.

Also with the permission of the chairman, I would like to submit some proposed amendments to S. 1148. It is noted that with the exception of a few technical changes, the proposed amendments relate only to section 3 of S. 1148.

The technical changes are as follows: In a number of places in the preamble of the bill and in the bill, reference is made to the Assiniboine Tribe of the Fort Peck Community. The correct reference should be to the Assiniboine Tribe of the Fort Peck Reservation. We do not use the word "community" in the title of our tribe. Among other places, the incorrect word "community" is used in section 1 and section 3.

Another change is on page 3 of S. 1148 at line 16. We suggest that the reference to "Treaty Committee" be stricken and instead to substitute the word "Council."

Also on page 3 on line 17, we suggest that after the word "with", insert the words "planning for."

On page 3 in section 3 in line 20 and 21, after the colon, strike the words "provided, that no person shall be eligible to share in more than one award in his own right." Strike those.

On page 4 in line 4, insert a period after the word "enrollee" and strike the remaining words in lines 4 through 8.

Strike all of section 3(b) on page 4, and insert a new paragraph (b) reading as follows:

(b) 30 percent of these funds shall be held in trust and invested and reinvested by the Secretary for the benefit of the Assiniboine Tribe of the Fort Peck Reservation and its members. The principal of the funds and the income therefrom shall be applied and used by the Secretary for the benefit of the Assiniboine Tribe of Fort Peck Reservation and its members, in accordance with reasonable terms established by the Fort Peck Assiniboine Council, with the concurrence of the Tribal Executive Board of the Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation and agreed to by the Secretary; provided that until such terms have been agreed upon, the Secretary shall fix the terms of the administration of the portion of the funds as to which there is no agreement.

That, Mr. Chairman, is the result of the June 3 meeting. As you stated in your opening statement, there was some question on the blood quantum. At the June 3 meeting, that was pretty much resolved.

Senator MELCHER. Was it resolved by a vote?

Mr. CARL FOURSTAR. By vote at the general council meeting held June 3, the majority carried to lift the reference to one-quarter in order to share in the payment, and that you have to be an enrolled Assiniboine, so long as you are properly enrolled at the Fort Peck Assiniboine Reservation.

Senator MELCHER. Was this a meeting called for the purpose of the vote?

Mr. CARL FOURSTAR. Yes.

Senator MELCHER. Was there a referendum?

Mr. CARL FOURSTAR. There was a referendum of sorts. The council was petitioned to conduct, to hold another general council meeting to address that issue only.

Senator MELCHER. Was there public notice to that effect?

Mr. CARL FOURSTAR. There were public notices. It was well advertised.

Senator MELCHER. Then as far as the treaty committee, you are satisfied that this represents the feelings of the tribe?

Mr. CARL FOURSTAR. Yes, sir.

Senator MELCHER. The effect of it is that there will be money distributed from the judgment funds to more people, more enrolled members of the tribe?

Mr. CARL FOURSTAR. Yes.

Senator MELCHER. Thank you very much. Do you have anything more to add to that?

Thank you very much.

Mr. CARL FOURSTAR. Thank you.

Senator MELCHER. We appreciate your testimony and your suggested amendments.

Senator MELCHER. Now the third witness today is—who is going to testify. Dolly Akers or Willie Weeks?

Mr. LESLIE FOURSTAR. Mr. Chairman?

Senator MELCHER. You are neither of those, Leslie.

Who is going to testify, Dolly Akers or Willy Weeks?

STATEMENT OF WILLIE WEEKS, WOLF POINT, MONT., REPRESENTING THE ASSINIBOINE TRIBE, ACCOMPANIED BY DULCIE RAE WOLF, TEMPE, ARIZ., AND DOLLY AKERS, HELENA, MONT.

Mr. WEEKS. Mr. Chairman, my name is Willie Weeks, and I am a member of the Assiniboine Tribe. We have agreed to have Carl do all the testimony for us.

Senator MELCHER. Pardon me?

Mr. WEEKS. We agreed to have Mr. Carl Fourstar read the testimony for us, on our behalf. We are all in agreement and in accord with what he just presented to you.

Senator MELCHER. Oh, you are in agreement with the testimony just presented?

Mr. WEEKS. Right. Exactly, sir.

Senator MELCHER. All right. Is Dulcie Rae Wolf here?

Ms. WOLF. Yes, I am here, Mr. Chairman.

Senator MELCHER. Are you in agreement with this?

Ms. WOLF. Yes, sir, I am. We came to an agreement yesterday afternoon. Both factions got together and decided that we wanted to handle this matter in the most expeditious manner, and that would be to go with the language to each enrollee and put the burden of proof on the Bureau of Indian Affairs to uphold our tribal constitution and enrollment ordinance.

Senator MELCHER. Thank you. Thank you very much.

Our next witness is John Fritz, Deputy Assistant Secretary for Indian Affairs.

STATEMENT OF JOHN FRITZ, DEPUTY SECRETARY FOR INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR, ACCOMPANIED BY BOB PENNINGTON OF THE BUREAU OF INDIAN AFFAIRS

Mr. FRITZ. Good morning, Mr. Chairman. Thank you very much for allowing myself and Mr. Bob Pennington of our Bureau of Indian Affairs staff to testify this morning.

Essentially, what I would like to call to the committee's attention is that we concur with Mr. Carl Fourstar's presentation earlier with respect to the only substantive amendment that we would suggest, and that is that the proposed amendment that was suggested by Mr. Fourstar with respect to section 3, page 4, line 4—inserting a period following "enrollee" and striking the remainder of the sentence—that that amendmert be instituted into S. 1148.

This proposed amendment would provide that the roll of those eligible to share in the per capita distribution of the Fort Peck Assiniboine portion of the judgment would consist of all of the presently enrolled Assiniboine on the Fort Peck Reservation, with the roll made current as of the date of the enactment of this act, and the deletion is in accordance with the wishes of the duly elected officials of the Fort Peck Reservation.

In addition, we had a clarifying amendment with respect to—it was actually a technical amendment which we have worked out with the committee staff to provide that a person may only elect to share as a tribal member in the award of one tribe under this act.

With that, sir, we will conclude our verbal testimony and we will be pleased to respond to any questions which you may have.

Senator MELCHER. I believe those amendments that you are describing are the same as the witnesses have testified to just previously.

Mr. FRITZ. Yes, sir.

Senator MELCHER. When would the money be distributed?

Mr. PENNINGTON. Both rolls are in pretty good shape. It should be very fast, Mr. Chairman. They both have a roll, as of September, which is in good shape. It is a matter of updating it as of the date of the act.

Senator MELCHER. If the bill were passed before the end of July, which is our goal, when would the distribution occur, then? It would have to be signed by the President, of course.

Mr. FRITZ. I would think sometime in September, sir.

Senator MELCHER. I was wondering if that would be the case.

Thank you very much. I am encouraged by that response: If we can pass it here in Congress before the end of the month and the President

signs it within a few days, then you would make the distribution by September. I know that many members of the tribe have been very apprehensive that the passage would drag out too long and the distribution of the funds would not be forthcoming very quickly, so I think your response is very encouraging. Thank you both very much.

[The prepared statement follows:]

PREPARED STATEMENT OF JOHN W. FRITZ, DEPUTY ASSISTANT SECRETARY—INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

We recommend enactment of S. 1148, if amended as we suggest.

On September 30, 1981, the United States Court of Claims made a final award of $16,389,593 to the Assiniboine Tribe of the Fort Peck Indian Reservation, Montana, and the Assiniboine Tribe of the Fort Belknap Indian Reservation, Montana, as representatives of the Assiniboine Nation.

The first section of S. 1148 provides for the distribution of funds awarded in court of claims docket numbered 10–81L. The award would be divided with 42.5 percent of the funds to the Assiniboine of the Fort Belknap Indian Reservation, Montana, and 57.5 percent to the Assiniboine Tribe of the Fort Peck Indian Reservation, Montana.

Section 2 would provide for the updating of the roll of tribal members, and distribution of funds apportioned to the Fort Belknap Indian community. After preparation of the roll, the secretary would make a per capita distribution of 80 percent of the funds to each enrollee. The remaining 20 percent of the funds would be held in trust and invested by the secretary for the benefit of the tribal members. Each year all enrollees living on November 15, would be eligible for an annual interest payment.

Section 3 would provide for the updating of the roll of tribal members and distribution of the funds apportioned to the Assiniboine Tribe of the Fort Peck Indian Reservation. After updating of the roll, the secretary would make a per capita distribution of 70 percent of the funds to each enrollee who is at least one-fourth degree Indian blood but not less than one-eighth degree Fort Peck Assiniboine blood.

The remaining 30 percent would be invested by the secretary and administered by the Fort Peck Assiniboine council for Social and Economic Development.

Section 4 would provide that the per capita shares of living competent adults would be paid directly to them. Shares of deceased, legal incompetent, and minor beneficiaries would be handled according to the provisions of 43 CFR, part 4, subpart D 25 CFR 115.5, and 25 CFR 87.10(A) and (B)(1) and 25 CFR 115.4, respectively. We suggest that the provision be amended to delete reference to specific regulations and instead refer to "regulation of the secretary" to avoid problems which may arise from amendment or renumbering the regulations subsequent to enactment of the bill.

Section 5 would provide that none of the funds distributed per capita or held in trust would be subject to Federal and State income tax, the per capita payments would not be considered as income or resources for determining eligibility for assistance under any federal or federally-assisted programs.

Section 6 would authorize the secretary to prescribe rules and regulations to carry out the above provisions, if enacted, including the establishment of deadlines for filing applications for enrollment.

In section 3(a), line 4 insert a period following "enrolled" and strike the remainder of the sentence.

This proposed amendment would provide that the roll of those eligible to share in per capita distribution of the Fort Peck Assiniboine portion of the judgment would consist of the presently enrolled Assiniboine of Fort Peck with the roll made current as of the date of enactment of this act. This deletion is in accordance with the wishes of the duly elected officials of the Fort Peck Reservation.

Section 3(A) as presently written makes per capita payments only to those with are one-quarter degree Indian blood or more but not less than one-eighth degree Fort Peck Assiniboine blood. There are 3,276 enrolled Assiniboine at Fort Peck. Some 2,117 are one-quarter or more degree Assiniboine: another 580 qualify as one-eighth degree Assiniboine but total one-quarter degree Indian blood thus qualifying under this proposed legislation. An additional 579 are less

than one-eighth degree Assiniboine blood but one-quarter degree Indian blood in total. Our proposed amendment would include the 579. The Assiniboine on Fort Peck in June 1983, voted 191–160 to pay the per capita to all Assiniboine enrollees. The Fort Peck tribe's executive board is recognized as the governing body of the reservation. The executive board passed resolution #107–82–4 by a vote of 9–3 turning down the proposal limiting eligibility to persons who are one-quarter degree Assiniboine blood or more. The tribe has had an enrollment ordinance since 1960. We do not believe now is the time to create a third class of Indians on the Fort Peck reservation, i.e. Those who in July are enrolled members but not able to share in the present award.

We also suggest the following clarifying amendment on page 2, section 2, lines 13–14, and page 3, section 3, lines 20–21, to amend the provisions to read "that a person may only elect to share as a tribal member in the award of one tribe under this act."

This concludes my prepared statement, and I shall be pleased to respond to any questions you may have.

Senator MELCHER. We will make part of the record a series of letters regarding the judgment bill now before us. Some letters deal with the blood quantum required and some letters deal with the split between the Assiniboine at Fort Belknap and the Assiniboine at Fort Peck.

[The material follows:]

CORRESPONDENCE IN FAVOR OF THE BLOOD QUANTUM REQUIREMENT

Gloria Payne
Box 423
Wolf Point, Montana 59201
June 24, 1983

RECEIVED JUL 0 5 1983

Senator John Melcher
1123 Dirksen Senate Office Building
Washington, D.C. 20510

Honorable Melcher:

My name is Gloria Payne and I am enrolled Assiniboine, who is eligible to participate in the distribution of Docket 10-81L.

A General Council was held on June 3, 1983, where a lengthy resolution was presented to be voted upon. The resolution which was adopted at this Council was so long and created a lot of questions and confusion among the people who were present.

I would prefer to clarify my vote by showing that I am for 1/4 degree of Assiniboine (INDIAN) blood, in order to participate in this award.

Sincerely, yours,

Gloria Payne

Gloria Payne
Box 723
Wolf Point, Mont.
59201

Senator John Melcher
1123 Dirksen Senate Office Building
Washington, D.C.
20510

Dear Senator Melcher:

I am a 26 year old ½ Assiniboine Indian female, who strongly support the cut off of the Docket 10-81L at ¼ degree of indian blood. I will try to outline my reason for the support of it in the rest of my letter.

First, it upset me to see how many of our so-called white folk changed their race when the saw they would get a little money by doing so.

There a lot of us here who worked hard at being self support by farming our tribal lands. With the payment we would get from Docket 10-81L cutting off at ¼. We we be able to get better machinery or pay some of our debt. In doing that we would be able to show pride in our self and others. The other way it will just help the rich get richer & the poor get poorer.

Please help us, who are will to help ourselfs.

I'm an non-drinker, non-smoker who needs the money desperlty to keep my farming operation going.

Please do your utmost for the America Farm too!

Thank-you
God Bless
Gloria Payne

P.S.
Your cordially welcome to my farm anytime! My Husband & father say I'm a great cook!

CORRESPONDENCE OPPOSED TO THE BLOOD QUANTUM REQUIREMENT

April 9, 1983

Senator John Melcher
Ken Smith
Max Richmond

Re: Claims D-10-81 Protest Assiniboine Claims Committees Decision on Blood Quantum

This letter is written in behalf of many Assiniboine Indians on and off the Ft. Peck Indian Reservation, Montana. Most of the Assiniboines living off the reservation have no idea what is taking place.

BE IT KNOWN THAT:

1. The Committees agenda did not contain a proper format of topics to be discussed, ie, Items and topics were added or deleted from the agenda at their discretion.

2. When a meeting was called and publicized, many Assiniboines would attend but, due to arguments, name calling and needless delays many people would simply get disgusted and leave the meeting,. What would happen next? The clan would call for a vote on items that were not on the agenda. Certainly this was improper and impartial because many of the interested persons had left. Actions of this nature are not democratic and are self serving to a very few.

3. Who are these self appointed approved U.S. Indian Historians? Naturally, they have no knowledge of history and blood lines of all Assiniboines on the reservation, not to mention their own.

4. One Committee member was not properly notified when meetings were in the planning stages or discussions of such a meeting were to take place, namely Mr. Weeks.

5. Why is Mr. Weeks arbitrarily left out or forgotten about? Because he voiced objections to their secret operations and self serving interests. It appears at the very first meeting the Committee decided on 1/4 blood Quantum, Mr. Weeks objected. Many Committee members have <u>increased</u> their blood Quantum, along with more of their clan.

6. Please take a look; who are the Committee members and their advisors? A Clan, yes a self serving clan who are looking out for their and the clans interest. Not very democratic.

7. U.S. Government: The U. S. government does not discriminate against Indians. When grants for housing, health, education and welfare are given to tribes, it is on the basis of the numbers of Indians enrolled on the reservations. If the U.S. government were to discriminate on the blood quantum, the tribes would recieve a very small portion of Federal Aids. In about two more generations the U.S. Governments trust responsibility would stop. This committee is not taking any of this into consideration, only how much more they can get into their pockets now, and their attitude seems to be let the future generations look out for themselves.

8. Every Indian on the Ft. Peck Reservation has benefited from all degrees of Indian blood. Remember, all the new homes, road monies, health monies, etc. The larger the grant monies the cheaper the services. The clan fails to remember the U.S. Government will not keep the Dental and Medical Clinics, Hospitals and Human Resources open just for a very few.

9. Why does the Enrollment Blood Quantum have to be changed every time a Treaty is settled? Simple greed by the clan. The blood Quantum was set and settled in 1960. Leave it and forget it.

There was a statement made by Elliott Todd that they had made an agreement with the Ft. Belknap Assiniboine Claims Committee that only the 1/4 and over would be paid the Assiniboine Payment and that they had to go by that now, and if any of the people that they had found ineligible protested in any way it would hold up the payment for them a year or longer. Whats another year? They have been working over the Assiniboine rolls a year or longer to suit themselves. Hopefully another Committee will be selected, if that is what it will take but we do feel the 1960 rolls should have been used right from the start. Sympathy should be for the older people who have waited for so many years for this matter to be settled.

THE UNDERSIGNED DULY ELECT MR. WILLIAM WEEKS TO REPRESENT US ON THE CLAIM D-10-81.

		Date
1. Marjorie Marie Knorr Chandler -	Enrollment No - AO-3713	4-9-83
2. Ramona Lee Keiser Damon	UO 4321	4-9-83
3. Donna Dagmar Keiser	UO 4453	4-10-83
4. John F Damon	UO 7079	
5 Bruce Damon	UO-8073	
6. Pamela Ann Keiser	UO-7327	
7. Keiser Morgan Kim	UO-7939	
8. Ronald R Keiser Sr.	UO-4653	
9 Ronald R. Keiser Jr.		
10 Alta R Keiser	AO-1849 -	4-12-83
11 Lucille M. Dewitt		4-12-83

26-467 38

55%

RESOLUTIONS REGARDING THE 57,5-42,5 PERCENT

DIVISION OF JUDGMENT FUNDS

RESOLUTION #607-82-4 TRIBAL GOVERNMENT

WHEREAS, the Fort Peck Tribal Executive Board is the duly elected body representing the Assiniboine and Sioux Tribes of the Fort Peck Reservation and is empowered to act in behalf of the Tribes. All actions shall be adherent to provisions set forth in the 1960 Constitution and By-Laws and Public Law #83-449, and

WHEREAS, the Assiniboine Council of the Fort Peck Indian Reservation has adopted a position paper for the disbursement of D-10-81-L, and

WHEREAS, the disbursement plan has been submitted to the Tribal Executive Board for endorsement prior to being submitted to Washington, D.C., and

WHEREAS, the position paper has established five (5) major facts in the disbursement plan, of which the Tribal Executive Board endorses and supports the first four (4) but does not choose or desire to accept the fifth (5) fact, Now

THEREFORE, BE IT RESOLVED that the Tribal Executive Board does hereby approve and does endorse the attached position paper for the disbursement of D-10-81-L except for the fifth (5) major fact which states that the Fort Peck Assiniboine members shall be one-fourth (1/4) or more Assiniboine blood to be eligible to participate in the distribution of Docket 10-81-L or any other available benefits.

BE IT FURTHER RESOLVED that the Tribal Executive Board approves for an Assiniboine Council delegation to Washington, D.C. on behalf of the Fort Peck Assiniboine tribal members to pursue the completion of D-10-81-L.

C E R T I F I C A T I O N .

I, the undersigned Secretary Accountant of the Tribal Executive Board of the Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, hereby certify that the Tribal Executive Board is composed of 12 voting members of whom 12 constituting a quorum were present at a Special meeting duly called and convened this 12th day of April, 1982, that the foregoing resolution was duly adopted at such meeting by the affirmative vote of 9.

Lillian S. Hertz, Secretary Accountant

APPROVED:

Norman Hollow, Tribal Chairman
Fort Peck Tribal Executive Board

Superintendent, Fort Peck Agency

Resolution No. 001

FORT PECK AND FORT BELKNAP
ASSINIBOINE COUNCILS

WHEREAS, Assiniboine Tribe of the two (2) segments residing on Fort Peck and Fort Belknap Reservations, Montana, agreed to a 57.5% of award funds to Fort Peck and 42.5% to Fort Belknap, and

WHEREAS, This plan was agreed on at a conference held at Billings, Montana, Thursday, March 31, 1983, and

WHEREAS, Representative from Congress, Max Richmond was present with Robert Pennington of the Interior Department, and

WHEREAS, With two (2) segments of Assiniboines of the Assiniboine Tribes of Montana and the above two (2) representatives from Washington, D.C. verify our agreement.

NOW THEREFORE BE IT RESOLVED, Agreement made this 31st day of March, 1983 be conclusive in division of funds.

C E R T I F I C A T I O N

We the undersigned members of the Assiniboine Claims Committee and Steering Committee of the Fort Peck Reservation with the Fort Belknap Treaty Committee, Montana, in agreement of the above resolution, hereby acknowledge the joint resolution agreement on division of funds from award funds 10-81L on this 31 day of MARCH, 1983.

Carl Fourstar, Chairman
Steering Committee
Fort Peck

George Redstone, Vice-Chairman
Steering Committee
Fort Peck

Leslie Fourstar, Chairman
Claims Committee, Steering Committee,
Enrollment Committee
Fort Peck

Elliott Todd, Claims Committee
Fort Peck

Larry Wetsit, Claims Committee,
Steering Committee
Fort Peck

Robert Fourstar, Steering Committee

John Allen, Sr., Committee Representative
Treaty Committee
Fort Belknap

Stanley Yellow Robe, Claims Committee
Treaty Committee
Fort Peck

Lenore Redelk, Enrollment Committee
Fort Peck

Wayne Martell, Steering Committee
Fort Peck

Florence Brown, Enrollment Committee
Fort Peck

Suzanne Jones, Secretary
Fort Peck

Gilbert Horn, Sr., Chairman
Treaty Committee
Fort Belknap

Donavan Archambault, Sr., V-Chairman
Treaty Committee
Fort Belnap

Edward Longknife, Sr., Secretary-Treasurer
Treaty Committee
Fort Belknap

Milton Horn, Sr., Committee Representative
Treaty Committee
Fort Belknap

Resolution No. 002

FORT PECK AND FORT BELKNAP
ASSINIBOINE COUNCILS

WHEREAS, Assiniboine Tribe of the two (2) segments residing on Fort Peck and Fort Belknap Reservations, Montana, agreed to a 57.5% pf award funds to Fort Peck and 42.5% to Fort Belknap, and

WHEREAS, This plan was agreed on at a conference held at Billings, Montana, Thursday, March 31, 1983, and

WHEREAS, Representative from Congress, Max Richmond was present with Robert Pennington of the Interior Department, and

WHEREAS, With two (2) segments of Assiniboines of the Assiniboine Tribes of Montana and the above two (2) representatives from Washington, D.C. verify our agreement

NOW THEREFORE BE IT RESOLVED, That the Fort Belknap Assiniboine Treaty Committee and the Fort Peck Assiniboine Treaty Committee agree, to the following on Docket 10-81L;

1. 57.5% will be awarded to the Fort Peck Assiniboine Treaty Committee

2. 42.5% will be awarded to the Fort Belknap Assiniboine Treaty Committee

BE IT FURTHER RESOLVED AND UNDERSTOOD, That the Investment of 10-81L be divided accordingly on the date of maturity being July 14th and July 19th and disposited into to seperate accounts designated Fort Belknap Assiniboine @ 57.5%.

CERTIFICATION

We the undersigned members of the Assiniboine Claims Committee and Steering Committee of the Fort Peck Reservation with the Fort Belknap Treaty Committee, Montana, in agreement of the above resolution, hereby acknowledge the joint resolution agreement on division of funds from award funds 1081L on this 31 day of March, 1983.

Elliott P. Lodd
Stanley Yellowtail
George Redstone
Yvonne Brown
Suzanne Jones
Robert Fourstar
Edward Longtarp Sr
Milton Horn
Jack W Allen
Billie Horn
Donovan Archambault, Sr
Leslie Fourstar

Resolution No. 10-83

Fort Belknap Indian Community
Assiniboine Tribe

WHEREAS, The Fort Belknap Indian Community Council is the governing body of the Gros Ventre and Assiniboine Tribes of the Fort Belknap Indian Community, Fort Belknap Reservation, Montana, by the authority of the Constitution and By-Laws of the Fort Belnap Tribes approved on the 13th day of December, 1935, and

WHEREAS, Under the Constitution and By-Laws of the Fort Belknap Indian Community, the Community Council is charged with the duty of protecting the health, security and general welfare of the Fort Belknap Indian Community, and

WHEREAS, The Fort Belknap Assiniboine Treaty Committee met jointly with the Fort Peck Assiniboine Treaty Committee on Thursday, March 31, 1983 in Billings, Montana, and

WHEREAS, Both Fort Belknap and Fort Peck are desirous of settling a percentage distribution of Docket 10-81L (Fort Laramie) as soon as possible, and

WHEREAS, There was conditional joint approval given a proposed percentage distribution by both the Fort Belknap Assiniboine Treaty Committee and the Fort Peck Assiniboine Treaty Committee, and

WHEREAS, This condition specifies a 42.5% to Fort Belknap Assiniboine and 57.5 to Fort Peck Assiniboine

NOW THEREFORE BE IT RESOLVED, That the Fort Belknap Assiniboine Treaty Committee and the Fort Peck Assiniboine Treaty Committee agree, to the following on Docket 10-81L;

1. 57.5% will be awarded to the Fort Peck Assiniboine Treaty Committee

2. 42.5% will be awarded to the FortBelknap Assiniboine Treaty Committee

BE IT FUTHER RESOLVED AND UNDERSTOOD, That the basis for arriving at these percentages was a joint agreement through compromise.

C E R T I F I C A T I O N

I, the undersigned, as Secretary of the Fort Belknap Assiniboine Treaty Committee composing of 6 members hereby certify that the Fort Belknap Treaty Committee attended by 5 members of who were present at a meeting thereof, duly called and properly convened and held this 31 day of MARCH, 1983 and that the foregoing resolution was duly adopted at such meeting by the affirmative vote of 4 for: 0 against: 0 absent: 1 not voting: 1 vacancy; and that said resolution has not been rescinded in any way.

Gilbert Horn, Sr. Chairman
Assiniboine Treaty Committee

Edward Longknife, Secretary
Assiniboine Treaty Committee

Senator MELCHER. Leslie Fourstar, you are not on the witness list. Do you wish to make a statement?

Mr. FOURSTAR. Yes.

Senator MELCHER. You may have a few minutes. Please, proceed.

STATEMENT OF LESLIE FOURSTAR, SR., CHAIRMAN, ASSINIBOINE CLAIMS COMMITTEE

Mr. LESLIE FOURSTAR. Well, I first want to express my gratitude for the privilege and honor to testify in behalf of the people. This bill, S. 1148, was introduced on April 26.

Lines 4, 5, and 6 of subsection 3 are quite confusing. The words "each enrollee who is at least one-fourth degree Indian blood but not less than one-eighth degree Fort Peck Assiniboine." Now that is the thing that confuses, that one-fourth Indian blood. Does that mean a combination of both Assiniboine and Sioux, one-fourth? We would like that clarified in the bill here.

Senator MELCHER. Yes. All right. Anything else?

Mr. LESLIE FOURSTAR. No, that is it. The rest, the way the bill is introduced, we feel it is all right. Only that is confusing and we would like to have it clarified on that one-fourth Indian. They could be one-fourth Sioux, if they are Fort Peck Indians, and no less than one-eighth Assiniboine. Therefore, really the one-eighth Assiniboine is the one that carries the Assiniboine award funds, but the one-fourth Sioux—well, they are of a different tribe.

Senator MELCHER. Well, that is prevented by—an Indian member of the Assiniboine roll could only participate in that. Now if he had participated in the Sioux judgment, it would knock him out of the opportunity to participate in the Assiniboine judgment, so they have to make their choice.

Mr. LESLIE FOURSTAR. If we were one-fourth Assiniboine and not less than one-eighth Sioux, does that mean that we could participate in the judgment of the Sioux?

Senator MELCHER. Only if you are enrolled as a Sioux.

Mr. LESLIE FOURSTAR. However, I would be on the Assiniboine-Sioux rolls. The Assiniboine-Sioux——

Senator MELCHER. If perchance some person were enrolled in both the Assiniboine and the Sioux, they would have to make their determination. If that situation exists they would have to make their determination, then, as an individual Indian, in which judgment they would participate and share.

I do not know that such a person exists who is enrolled both in the Assiniboine at Fort Peck and the Sioux at Fort Peck, but if so, that person can only participate in one judgment. Since we found that most of the people who are enrolled on the Assiniboine roll at Fort Peck would be eligible for participation in the judgment funds, that limited them just to that. However, the language before you clearly states that no person could participate in more than one judgment award, and no person, of course, could participate if they were not on the roll of either the Assiniboine or the Sioux.

However, the amendments that have been suggested today are very clear and to the point, and that is, those amendments that have been

suggested say that those who are enrolled as Assiniboine will participipate in the judgment distribution without regard to blood quantum.

Mr. LESLIE FOURSTAR. That is about the extent of the testimony.

Senator MELCHER. Thank you very much, Leslie.

I have prepared statements from Dolly Akers and Dulcie Wolf which I will place in the hearing record at this point.

[The statements follow:]

PREPARED STATEMENT OF DOLLY CUSKER AKERS, FT. PECK ALLOTTEE NO. 1672, FORMER CHAIRMAN OF THE FORT PECK TRIBES—1956–1959

A majority of enrolled Ft. Peck Assiniboines are opposed to that portion of S. 1148 which establishes the blood quantum at one-fourth degree Indian blood, with one-eighth to be Assiniboine, for participation in the distribution claims award, Docket 10–81L.

The Assiniboine Treaty Committee, which recommended such action, does not stand alone. The Treaty Committee functions at the pleasure of the Ft. Peck Tribes elected Executive Board. On April 12, 1982, the Tribal Executive Board acted on a position paper presented by the Treaty Committee for approval. That portion of the position paper which attempted to change the degree of blood was rejected by the Executive Board by Resolution No. 607–82–4.

On June 3, 1983, a duly called and convened Assiniboine General Council voted to rescind the resolution which attempted to establish the requirement of one-fourth Indian blood for eligibility to participate in Docket 10-81L. The vote was 191 against the blood quantum requirement and 160 for. Additionally 210 bona fide proxies were presented against, making a total of 401 against the blood quantum requirement and 160 for. These proxies were presented by Thomas Smith, Mr. McAnally, Wm. Weeks, and Dolly Akers. This General Council action is comparable to a Referendum and repudiates the action taken by approximately 63 people to establish a one-quarter Indian blood requirement for participation in Docket 10–81L and should be sufficient evidence that the majority of Assiniboines want S.B. 1148 amended.

The Ft. Peck Tribes' Constitution and Enrollment Ordinance, adopted in 1960, under the Self-Determination Act of Congress, would be negated if this portion of S.B. 1148 was adopted.

PREPARED STATEMENT OF DULCIE RAE WOLF, MEMBER, FORT PECK RESERVATION ASSINIBOINE TRIBE

I am Dulcie Rae Wolf, an enrolled member of the Fort Peck Reservation's Assiniboine Tribe, here to testify on S. 1148.

I support the bill, in part, because it provides for the distribution of a judgment now held in the United States Treasury and unavailable to the Tribe. I have two major concerns about the manner of distribution provided for in the Bill because these provisions would make major changes in the Fort Peck Constitution and the laws of the Fort Peck Tribe by federal legislation. It is my hope that this Committee and the Congress support the concept of local self government for Indian tribes and I do not believe that you want to interfere with the right of Tribes to function under the Self Determination Act by undermining this policy through legislative mandate.

The Assiniboine Treaty Council was appointed by Board Resolution 2333–81–8 to represent Fort Peck Assiniboine members for the division of an award between the Fort Peck and Fort Belknap reservations. The division was settled with 57.5 percent going to Fort Peck and 42.5 percent going to Fort Belknap. When this decision on the division to the respective Tribes was reached by the Tribes and the Bureau of Indian Affairs, the authority delegated to the Assiniboine Council by the Board expired. Article VII, Section 8, of our Constitution entitled Governmental Powers, says "No authority contained in this constitution and by-laws may be delegated by the Tribal Executive Board to tribal officials, district councils, committees, delegates or associations, to carry out any functions for which this Tribal Executive Board assumes primary responsibility, except by ordinance or resolution duly enacted by the Tribal Executive Board in the legal session, and excepting those specific requirements contained in the by-laws hereof". When this accord on the division had, in fact, been reached,

the work of the Assiniboine Treaty Council did end, as evidenced by Resolution 2341–83–5.

My first concern is that Section 3a of the Bill would change Tribal law as embodied in our Tribal Constitution and Enrollment Ordinance. Article III of the Constitution entitled "Membership" provides that "Membership of the tribes of the reservation shall consist of those persons who qualify in accordance with an ordinance approved by the tribes in a referendum vote. A membership ordinance shall be submitted to the tribes simultaneously with the submission of this constitution for referendum vote by the tribes". As required by this section, an enrollment ordinance was submitted to the Tribe by referendum and adopted in 1960. That ordinance provides that persons on the basic rolls are members of the Fort Peck Tribe, provided the person is not enrolled as a member of some other tribe.

Section 1b of the Tribe's Enrollment Ordinance provides that the descendents of persons on the basic roll shall include "Each living person of Assiniboine or Sioux Blood born prior to the effective date of this constitution who is a lineal descendent of a person whose name appears on one or both of the documents specified in (a) of the section regardless of whether such annuitant or allottee is living or deceased, provided that he or she is not enrolled as a member of some other tribe, and provided further that he or she is a citizen of the United States". Further, Article X, Section 1, of the Tribe's Constitution entitled "Business and Fiscal Authorities" states "Not more than seventy percent (70 percent) of the income of the Tribes in the United States Treasury shall be paid out in per capita payments each year among the enrolled members of the tribes". By limiting the judgment fund distribution to those members who are at least one-fourth degree Indian blood, but not less than one-eighth degree Fort Peck Assiniboine blood, the federal law would change the fundamental law of the Fort Peck Tribe.

My second concern is with Section 3b of the Bill. The people of the Fort Peck Reservation, through Article IV of the Constitution entitled "Governing Body", gave governmental power to a body to be known as the Tribal Executive Board. As noted above, only under certain conditions may the Board delegate authorities to subordinate bodies. By providing that 30 percent of the funds "shall be invested by the Secretary and administered by the Fort Peck Assiniboine Council for the Fort Peck Assiniboine people through the Executive Board of the Fort Peck Tribe", this section changes, by federal legislation, the fundamental governmental structure and powers established by the Fort Peck people.

I do not believe that tribal self government and self determination will be strengthened or honored by the United States if the Congress delves down into the internal structure and functions of tribal government when the different factions of tribe become at loggerheads on a particular issue. I trust that this Committee and the Congress agree with this belief.

In addition, the proviso to Section 3 that "no person shall be eligible to share in more than one award in his own right" is undoubtedly intended to prohibit persons from sharing in both Sioux and Assiniboine payments since all Assiniboines, with the exception of those born since the 1973 payment, have received previous per capitas "in their own right". The language and intent of this section should be made clear.

I am strongly opposed to the points of the Bill I have discussed for the reasons stated herein.

Senator MELCHER. That concludes this hearing, and we are adjourned.

[Whereupon, at 9:35 a.m., the hearing adjourned.]

O